

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
IN AND FOR THE COUNTY OF CLACKAMAS

LITTLE TREES INVESTMENTS, LLC,  
Plaintiff,  
v.  
STATE FARM FIRE AND CASUALTY  
COMPANY,  
Defendant.

Case No. **24CV39239**  
**COMPLAINT (Breach of Contract,  
Breach of the Implied Covenant of Good  
Faith, Negligence *Per Se*)**  
PRAYER: \$663,693.72  
Fee Authority: \$594.00 (ORS 21.160(1)(c))  
**Not Subject to Mandatory Arbitration**  
**DEMAND FOR JURY TRIAL**

COME NOW plaintiff Little Trees Investments, LLC ("Plaintiff" or "Little Trees") and  
for its claims against defendant State Farm Fire and Casualty Company ("Defendant" or "State  
Farm"), alleges as follows:

**PARTIES**

1. Little Trees is an Oregon limited liability company with its principal place of  
business at 333 S State St. v 351, Lake Oswego, Oregon 97034.
2. State Farm is an insurance company that, at all times material to this action, was  
licensed and authorized to issue insurance policies covering property in Clackamas County,  
Oregon, including the insurance policy at issue in this lawsuit.



**FACTUAL ALLEGATIONS**

3. State Farm sold Little Trees a property insurance policy, numbered 97-CL-U-586-5 (the "Policy"), that covered the rental dwelling owned by Little Trees located at 2001 Greentree Rd., Lake Oswego, County of Clackamas, OR 97034 (the "Property").

4. The Policy was issued for valuable consideration in the form of premiums.

5. Little Trees paid all premiums as they became due.

6. On or about January 18, 2024, while the Policy was in effect, the Property was severely damaged by water (the "Loss").

7. The damage to the Property caused by the Loss is covered under the Policy.

8. Little Trees submitted to State Farm a claim under the Policy for the damage to the Property resulting from the Loss, which was designated by State Farm as Claim No.37-62B5-16K (the "Claim").

9. State Farm acknowledged and accepted coverage for the Claim.

10. State Farm prepared an initial estimate for the Loss for covered damages under the Claim. State Farm estimated the total replacement cost value (RCV) to repair the Property to pre-Loss condition is \$41,243.93. State Farm paid Little Trees \$34,684.43 as the actual cash value (ACV), less the deductible, of the damage to the Property caused by the Loss.

11. State Farm did not issue any payments for Little Trees' loss of rent due to the Loss.

12. The Property had recently undergone a substantial remodel and was in the process of being rented out just prior to the Loss at \$4,000 per month, plus utilities, which represents the fair market value of the Property.

13. Little Trees retained a public adjuster to assist in presenting the Claim to State Farm.

14. Little Trees' public adjuster prepared a separate estimate using insurance industry-standard estimating software to determine the reasonable cost to repair the damage to the Property due to the Loss is \$466,928.15 on a replacement cost basis. State Farm refused to pay or

1 otherwise adjust the scope and estimate presented by Little Trees' public adjuster.

2 15. Little Trees consulted with an Oregon licensed general contractor to estimate the  
3 reasonable cost to repair the damage to the Property to pre-Loss condition in the amount of  
4 \$451,128.00. State Farm refused to pay or otherwise adjust the scope and estimate presented by  
5 Little Trees' contractor.

6 16. Little Trees has complied with all conditions precedent to coverage under the Policy,  
7 including, without limitation, permitting inspection of the Property and providing all documents  
8 requested from them by State Farm.

9 17. State Farm's investigation, adjustment, and handling of the Claim has been  
10 unreasonable and improper under Oregon claim handling standards, including, without  
11 limitation, in improperly delaying inspection of the damage to the Property, inadequately  
12 investigating and adjusting the Loss, unreasonably undervaluing the cost to repair the damage to  
13 the Property, and failing to identify damage to the Property caused by the Loss. Little Trees and  
14 its representatives provided State Farm with substantial documentation and support for additional  
15 costs needed to properly repair the Property to its pre-Loss condition, which was disregarded by  
16 State Farm and has resulted in the significant underpayment of the Claim outlined herein.

17 18. State Farm's dilatory and unreasonable investigation and its refusal to pay the  
18 amounts owed under the Policy has resulted in reasonably foreseeable consequential damages in  
19 the form of increased mitigation costs required by Little Trees to incur in the amount currently  
20 estimated of \$5,000 in an amount to be proven at trial.

21 **CLAIMS FOR RELIEF**

22 **FIRST CLAIM FOR RELIEF**

23 **(Count 1: Express Breach of Contract)**

24 19. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

25 20. The Policy constitutes a valid, enforceable contract between Little Trees and State  
26 Farm.

1           21. State Farm breached the Policy by failing to pay the reasonable and necessary cost  
2 to repair the damage to the Property and its contents resulting from the Loss and for loss of rents  
3 covered under the Policy.

4           22. As a direct and proximate result of State Farm's breach of the Policy, Little Trees  
5 has sustained damages in an amount to be proven at the time of trial, but which are anticipated  
6 to be at least \$437,243.72 for the total cost to repair the Property to pre-Loss condition and for  
7 loss of rents to be incurred through the reasonable period of restoration at a rate of \$4,000 per  
8 month plus utilities (except garbage) at approximately \$350 per month, currently estimated at  
9 \$30,450 which continues to accrue.

10          23. Little Trees is entitled to recover its attorney fees and costs from State Farm pursuant  
11 to ORS 742.061.

12          24. Little Trees is entitled to recover prejudgment interest pursuant to ORS 82.010  
13 because the amount of its damages was readily ascertainable as of the date of the Loss.

14           **(Count 2: Breach of the Implied Covenant of Good Faith and Fair Dealing)**

15          25. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

16          26. The implied terms of the Policy include State Farm's promise to act in good faith  
17 and to deal fairly with Little Trees in all matters related to the Policy, including the investigation,  
18 adjustment, coverage decision, and payment of the Claim.

19          27. State Farm breached the Policy's implied covenant of good faith and fair dealing  
20 during its evaluation, investigation, and adjustment of the Claim in at least the following ways:

- 21           a. Refusing to pay the full amount owed on the Claim without stating a  
22 reasonable basis for its denial;
- 23           b. Misrepresenting facts or policy provisions in setting claims in violation of  
24 ORS 746.230(1)(a);
- 25           c. Refusing to pay claims without conducting a reasonable investigation based  
26 on all available information in violation of ORS 746.230(1)(d);

d. Not attempting, in good faith, to settle the Claim when liability was reasonably clear, in violation of ORS 746.230(1)(f); and

e. Compelling Little Trees to retain a public adjuster to assist with presenting the Claim and to hire counsel to file a lawsuit to receive benefits owed under the Policy by refusing to pay the full amount owed on the Claim, in violation of ORS 746.230(1)(g).

28. State Farm's refusal to act in good faith constitutes a breach of the Policy.

29. As a direct and proximate result of the breach of the implied covenant of good faith and fair dealing, Little Trees has suffered the economic loss of the contractual benefit of the contract in an amount to be proven at the time of trial but in no event less than least \$437,243.72 for the total cost to repair the Property to pre-Loss condition, and for loss of rents to be incurred through the reasonable period of restoration at a rate of \$4,000 per month plus utilities (except garbage) at approximately \$350 per month, currently estimated at \$30,450 which continues to accrue.

30. Little Trees is entitled to recover its attorney fees and costs from State Farm pursuant to ORS 742.061.

31. Little Trees is entitled to recover prejudgment interest pursuant to ORS 82.010 because the amount of their damages was readily ascertainable as of the date of the Loss.

## **SECOND CLAIM FOR RELIEF**

### **(Negligence / Tortious Insurance Bad Faith)**

32. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

33. State Farm is subject to a standard of care in its performance of insurance contracts that is independent of, in addition to, and outside the terms of the Policy. As State Farm's insured, Little Trees was protected under law from specific practices, acts, or omissions by State Farm that are harmful and injurious to policyholders. The legal protection from improper practices, acts, or omissions by State Farm serves to, among other things, ensure that insurance companies

1 promptly, thoroughly, and fairly investigate insurance claims, promptly and completely pay  
2 policyholders for all covered damages, and honestly represent to policyholders the coverage  
3 afforded by the insurance policy and the facts of the claim. In the context of property damage  
4 claims like this, the protections afforded to Little Trees provided it with the assurance it would  
5 be able to promptly repair or replace its covered Property and return it to its pre-Loss condition,  
6 and it would be provided with loss of rents payments to compensate it for loss of income. These  
7 guarantees serve as a safeguard for policyholders from the injuries associated with the insurance  
8 company failing to promptly and effectively investigate and adjust the claim, refusing to pay all  
9 amounts owed under the Policy, dedicating substantial time and effort to secure the full benefits  
10 owed under the Policy, and having to expend additional amounts for public adjuster and attorney  
11 services in order to recover all amounts owed by State Farm.

12 34. As State Farm's policyholders, Little Trees was a member of the class protected  
13 from State Farm's negligent, improper, and injurious claim handling. As a result of State Farm's  
14 mishandling of its claim, Little Trees sustained reasonably foreseeable injuries.

15 35. State Farm negligently performed its obligations in its review, investigation,  
16 adjustment, and decision to not fully pay the Claim in one or more of the following particulars  
17 outlined in paragraph 26.

18 36. State Farm knew, or in the exercise of reasonable care as an insurance business,  
19 should have known, that one or more of the foregoing acts or omissions would create an  
20 unreasonable risk of harm to Little Trees as its policyholder. As a business engaged in the  
21 marketing and selling of insurance to provide coverage for homeowners who suffer covered  
22 property loss, State Farm knew or had reason to know that when it issues a property insurance  
23 policy to policyholders that a foreseeable and probable consequence of its failure to provide  
24 insurance benefits in accordance with the Policy would be to cause the policyholder to suffer the  
25 adverse effects of having to unnecessarily and unreasonably be required to spend time, effort,  
26 and additional monetary resources, which results directly in financial hardship to the

1 policyholder. State Farm also knew or had reason to know that when it issued the Policy that a  
 2 primary reason policyholders purchase such insurance is to relieve the financial hardship caused  
 3 by significant property losses, such as those caused by a covered property loss.

4 37. As a direct and proximate result of State Farm's negligent performance of its  
 5 common law and statutory obligations owed to Little Trees when administering the Policy, as  
 6 detailed above in this Complaint, Little Trees suffered economic damages in the form of the need  
 7 to retain the services of a public adjuster to assist with presenting the Claim in the amount of  
 8 10% of the total contractual benefit obtained, which is currently estimated as approximately  
 9 \$46,000.

10 38. In addition, as a result of State Farm's negligent performance of its obligations,  
 11 Little Trees suffered the actual damages from State Farm's denial, consequential damages, and  
 12 out-of-pocket expenses, including, but not limited to, increased costs of construction, additional  
 13 mitigation costs, lost investment opportunities, loss of rent and revenue beyond the amounts  
 14 covered under the Policy as the result of State Farm's negligence and violations of ORS 746.230,  
 15 an amount to be proven at the time of trial, but not less than \$150,000.00.

#### 16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Little Trees prays for judgment as follows:

18 1. That judgment be entered in favor of Plaintiff Little Trees, and against Defendant  
 19 State Farm, on each of the claims stated herein.

20 2. On the First Claim for Relief, including each separate count, for damages in an  
 21 amount to be proven with specificity at the time of trial, but anticipated to be no less than  
 22 \$462,693.72.

23 3. On the Second Claim for Relief, for damages in an amount to be proven with  
 24 specificity at the time of trial but anticipated to be no less than \$196,000.

25 4. That it recover pre- and post-judgment interest at the maximum legal rate.

26 5. That it recover attorney fees and costs pursuant to ORS 742.061.



6. That it be awarded such other relief as is just and proper.

DATED this 14<sup>th</sup> day of August 2024.

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